UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION 4

ALABAMA
FLORIDA
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July 19, 2024

By email only to mark.scott@hcbe.net

Dr. Mark Scott
Superintendent
Houston County School District
Perry, Georgia

Re: Houston County School District – OCR Complaint Numbers 04-20-1216 and 04-20-1218

Dear Dr. Mark Scott:

On January 15, 2020, the U.S. Department of Education, Office for Civil Rights (OCR), received the above-referenced complaints filed against the Houston County School District, Georgia (District). Complainant A filed complaint number 04-20-1216 on behalf of their daughter, Student A, and Complainant B filed complaint number 04-20-1218 on behalf of their daughter, Student B. Both Students formerly attended [redacted content] (School). The Complainants alleged that the District discriminated against the Students on the basis of race and engaged in retaliation in connection with the School's [redacted content] program.

OCR enforces Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. Sections 2000d-2000d-7, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin under any program or activity receiving federal financial assistance from the Department. As a recipient of Federal financial assistance from the Department, the District is subject to Title VI and its implementing regulation.

OCR investigated:

1. Whether the District discriminated against the Students by failing to address a racially hostile environment in violation of Title VI and its implementing regulation at 34 C.F.R. § 100.3.

2. Whether the District retaliated against the Students in violation of Title VI and its implementing regulation at 34 C.F.R. § 100.7(e).

During the investigation, OCR reviewed documents from the Complainant and the District, including correspondence and meeting notes related to the Complainant's allegations of racial harassment and retaliation; documents related to the District's investigations of the Complainant's allegations; and personnel records. Also, OCR interviewed the Complainant, a junior varsity [redacted content] coach (JV Coach), the head [redacted content] coach (Head Coach), and an assistant principal (Assistant Principal 1).

Prior to OCR completing its investigation, the District expressed an interest in resolving the complaint pursuant to Section 302 of OCR's Case Processing Manual. Section 302 states that allegations under investigation may be resolved at any time when, prior to the completion of the investigation, the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified concerns that can be addressed through a resolution agreement. Following are the relevant legal standards and OCR's summary of the investigation.

Legal Standards

The regulation implementing Title VI, at 34 C.F.R. § 100.3, provides that no person shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program to which Title VI applies.

Title VI's protection from race discrimination extends to students who experience discrimination, including harassment, based on their actual or perceived race. The existence of a hostile environment based on race that is created, encouraged, accepted, tolerated, or left uncorrected by a recipient constitutes discrimination on the basis of race in violation of Title VI.

To establish a violation of Title VI under the hostile environment theory, OCR must find that: (1) a hostile environment based on race, color, or national origin existed; (2) the recipient had actual or constructive notice of the hostile environment; and (3) the recipient failed to take prompt and effective action to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.

OCR interprets Title VI to mean that the following type of harassment creates a hostile environment: unwelcome conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from a recipient's education program or activity. Harassing acts need not be targeted at the complainant to create a hostile environment. The acts may be directed at anyone, and the harassment may also be based on association with others of a different race (the harassment might be referencing the race of a sibling or parent, for example, that is different from the race of the person being harassed whose access to the school's program is limited or denied).

The harassment must in most cases consist of more than casual or isolated incidents based on race to establish a Title VI violation. Whether harassing conduct creates a hostile environment must be determined from the totality of the circumstances. OCR will examine the context, nature, scope, frequency, duration, and location of the harassment, as well as the identity, number, and relationships of the persons involved. If OCR determines that the harassment was sufficiently severe that it would have adversely affected a reasonable person, of the same age and race as the victim, under the same circumstances, from participating in or enjoying some aspect of the recipient's education program or activity, OCR will find that a hostile environment existed.

A recipient may be found to have violated Title VI if it has effectively caused, encouraged, accepted, tolerated, or failed to correct a hostile environment based on racial harassment of which it has actual or constructive notice. A recipient is charged with constructive notice of a hostile environment if, upon reasonably diligent inquiry in the exercise of reasonable care, it should have known of the discrimination. In other words, if the recipient could have found out about the harassment had it made a proper inquiry, and if the recipient should have made such an inquiry, knowledge of the harassment will be imputed to the recipient.

A recipient violates Title VI if one of its agents, acting within the scope of their official duties, has treated an individual differently on the basis of race in the context of an educational program or activity without a legitimate, nondiscriminatory reason so as to interfere with or limit the ability of the individual to participate in or benefit from the services, activities, or privileges provided by the recipient. If the alleged harasser is an agent or employee of a recipient, acting within the scope of their official duties, then the individual will be considered to be acting in an agency capacity and the recipient will be deemed to have constructive notice of the harassment.

Once a recipient has actual or constructive notice of a hostile environment, the recipient has a legal duty to take reasonable steps to eliminate it. OCR evaluates the appropriateness of the responsive action by assessing whether it was reasonable, timely, and effective. The appropriate response to a hostile environment based on race must be tailored to redress fully the specific problems experienced as a result of the harassment.

The regulation implementing Title VI at 34 C.F.R. § 100.7(e) states that no recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under the regulation.

To find a prima facie case of retaliation, each of the following three elements must be established: (1) an individual experienced an adverse action caused by the recipient; (2) the recipient knew that the individual engaged in a protected activity or believed the individual might engage in a protected activity in the future; and (3) there is some evidence of a causal connection between the adverse action and the protected activity. If all of the elements of a prima

facie case of retaliation are established, then OCR considers whether the recipient has presented a facially legitimate, non-retaliatory reason for taking the adverse action. If so, then OCR considers whether the reason for the adverse action is genuine or a pretext for retaliation, or whether the recipient had multiple motives for taking the adverse action.

Issue 1: Racially Hostile Environment

Facts

Relevant District Policies

As of the 2019-2020 school year, the District's Policy JAA, captioned "Students Equal Educational Opportunities" stated that there would be no discrimination based on race or color in the District's educational programs or activities.

Policy GAAA, captioned "Equal Employment Opportunity," included a notice that the District did not discriminate on the basis of race, color, or national origin in its student programs, but within that notice, did not reference Title VI. Policy GAAA provided a process that students and parents could use to report discrimination or harassment that violated the policy. The steps in the process included the following, among others:

- the principal or coordinator who received a complaint was required to prepare a written memorandum or statement regarding complaints that were presented orally;
- the coordinator or designee was responsible for gathering evidence, attempting to resolve the complaint and preparing a written response to the complaint;
- the complainant could meet with the Superintendent or the Superintendent's designee if dissatisfied with the resolution or if there was no resolution, and the Superintendent was required to prepare a written response to the complainant; and
- the complainant could submit to the Superintendent a written request for review by the Board of Education, which was required to act on the complaint at the next scheduled meeting following receipt of the request through the Superintendent.

The District also has a policy, "JCE Student Complaints and Grievances," that provides procedures for a student or parent to file a grievance with a school but does not reference discrimination or harassment. Under the policy the school principal initially addresses the complaint; the parent or student can file a grievance with the Superintendent or the Superintendent's designee if dissatisfied with the principal's disposition of the matter; and the student or parent may request a hearing before the Board of Education if dissatisfied with the disposition by the Superintendent or the Superintendent's designee.

The Students' Experience With the [redacted content] Team

During the 2019-2020 school year, the Students [redacted content]. A School teacher served as head coach of the [redacted content] team.

At the beginning of the school year the [redacted content] team and other School [redacted content] teams practiced off-campus at the [redacted content]. The owner and operator of the [redacted content] ([redacted content] Coach), [redacted content] served unofficially as a [redacted content] Coach. During practices at the [redacted content], the [redacted content] Coach would work with [redacted content]; the [redacted content] Coach [redacted content];.

During [redacted content], the Head Coach removed Student B [redacted content] replaced her with a white [redacted content]. The evidence does not provide a clear explanation for the removal. According to meeting or discussion notes (Meeting Notes) provided by the District, at the time of the incident the Head Coach said that all the [redacted content] needed to earn [redacted content]; however the Head Coach told OCR she may have moved Student B for making a comment about [redacted content] she was not sure and the JV Coach told OCR the Head Coach moved Student B [redacted content] before the season started. On [redacted content], Complainant B reported to Assistant Principal 1 that the Head Coach replaced Student B with a white[redacted content]; Complainant B said the decision appeared to be racist. After Complainant B complained, the Head Coach returned Student B to her place [redacted content].

On [redacted content] before practice, the [redacted content] Coach made a comment about [redacted content] and he said to the JV Coach, [redacted content]." The JV Coach did not report the comments to a school official. That night, through a [redacted content] message the JV Coach acknowledged to Complainant B that she heard the [redacted content] Coach [redacted content]. The JV Coach approached the [redacted content] Coach the following day; he apologized and said it was not his best judgement to [redacted content]. He also told the JV Coach that he was [redacted content].

On [redacted content], the Complainants and the parent of a Black [redacted content] met with Assistant Principal 1; they reported that the [redacted content] Coach had used [redacted content] the previous day. According to the Complainants, the parents also reported that the [redacted content] Coach had a history of making derogatory comments about race to the girls such as comments about [redacted content] and the parents of one of the girls knowing how to [redacted content]. In an OCR interview, Assistant Principal 1 denied that the parents reported comments by the [redacted content] Coach about [redacted content] and a student having a [redacted content]. Assistant Principal 1 told OCR that Complainant B mentioned comments about [redacted content] during a different meeting regarding concerns about the atmosphere at [redacted content] practices, an athletic director said he would look into their concerns, and he talked with coaches about asking the Black students about [redacted content].

According to the Meeting Notes, on [redacted content], Assistant Principal 1 questioned the JV Coach about the [redacted content] Coach's use of the [redacted content] on [redacted content], Assistant Principal 1 and another assistant principal questioned the Head Coach and the Junior

Varsity Assistant Coach (JV Assistant Coach) about the incident; and all coaches denied hearing any inappropriate language. The notes reflect that Assistant Principal 1 also spoke with another school's head [redacted content] coach, who was also present at the [redacted content] on [redacted content]; that coach reported that she heard some fussing among the other team but did not hear anything inappropriate. Assistant Principal 1 updated the Complainants regarding the investigation on [redacted content], and Complainant B gave the Assistant Principal a copy of the messages she had exchanged with the JV Coach.

The Complainants told OCR that during [redacted content] practice on [redacted content], the Head Coach refused to give the Students [redacted content] during practice and ultimately said the Students were [redacted content]. According to the Complainants, the refusal to provide [redacted content] created a possible safety issue.

On [redacted content], Complainant B emailed Assistant Principal 1, to report that during the practice on [redacted content], the Head Coach refused to [redacted content] for Student A and after Complainant B went in and asked what was going on, the Head Coach ultimately said the Students were not going to [redacted content].

In interviews of the Head Coach, JV Coach and JV Assistant Coach on [redacted content], School administrators again discussed the October 24 practice and also discussed the [redacted content] practice. The JV Assistant Coach admitted to hearing the [redacted content] Coach use the [redacted content] during the [redacted content] practice; the two other coaches denied hearing [redacted content]. According to interview notes provided by the District, during her interview, the Head Coach brought up the topic [redacted content] for the Students, stating that during practice on [redacted content] they had asked for [redacted content], and she had responded that they had [redacted content]. The interview notes reflect that during the interview, in response to a comment about a possible safety issue [redacted content], the Head Coach said they would not have a [redacted content], and it was her call as coach whether to provide [redacted content]. During the follow up District interview the JV Assistant Coach said that in the "heat of the moment" during the practice on [redacted content] the Head Coach had said the Students would not be [redacted content].

According to a summary provided by the District, based on its investigation the District found that the [redacted content] had been used on [redacted content] during [redacted content] practice; two coaches were not truthful during the initial questioning about the incident; and the JV Coach was untruthful during two interviews. In light of its investigation and finding, the District decided to: take personnel actions against some [redacted content] coaches; move all School [redacted content] team practices to the School; assign a School administrator to be present during all [redacted content] practices for the remainder of the [redacted content] season; and end the [redacted content] Coach's affiliation and coaching relationship with the School's [redacted content] team. The District's summary stated that the District also determined that during the [redacted content] practice the Head Coach violated the School's athletic handbook by arguing with parents and that both Students would remain on the [redacted content] team.

At a game during the end of [redacted content], Complainant B noticed that the Students were receiving direction from [redacted content] rather than the Head Coach. Complainant B told OCR she discussed the situation with Assistant Principal 1, who responded that she had told the Head Coach to have minimal contact with the Students.

On [redacted content], Complainant A reported to Assistant Principal 1 that [redacted content] were harassing Student A and expressed concern for Student A's safety. According to the District's summary, Assistant Principal 1 took the following steps: met with Student A, who reported that one of the [redacted content] had told her that she [redacted content] as the [redacted content] team did not need all the negativity and another [redacted content] told her she needed [redacted content]; met individually with the [redacted content] identified by Complainant A; and when the [redacted content] corroborated what Student A reported, told them they needed to work together as a team in order to achieve success.

On [redacted content], a secretary in the District's [redacted content] notified the School Principal and other administrators that Complainant B had called to report that Student B and [redacted content] were being alienated by the Head Coach and other [redacted content]. According to notes provided by the District, Assistant Principal 1 contacted Complainant B, who provided the following examples among others, of what the Students were experiencing: on the previous Friday, none of the [redacted content] spoke to the Students at school; on the previous Saturday, Student A [redacted content] and the Head Coach's response was to ask [redacted content] other [redacted content] communicated differently with the Students; [redacted content] were changed; and, the Students were being [redacted content]. The District's summary states that in response to the foregoing concerns Assistant Principal 1 met with all of the [redacted content]; the District determined that the [redacted content] were not getting along, the Students were choosing not to communicate with the other [redacted content] were choosing not to communicate with the Students; Assistant Principal 1 told all of the [redacted content] they needed to unify as a team and also told the Students that they needed to communicate positively with [redacted content] to do the same; and, Assistant Principal 1 spoke with the Head Coach about unifying the team. The summary reflects that the District determined that the actions of the [redacted content] did not constitute discrimination. The District's summary does not show that School administrators inquired, or made a determination, about the concerns regarding the remark that the Head Coach reportedly made after Student A , the change in [redacted content] or the assertion that the Students were being [redacted content].

On [redacted content], the School Principal issued a letter of directive to the Head Coach. Among other things, the letter stated the following: that the District found that inappropriate comments were made on [redacted content], in the presence of students, though not addressed to students; as Head Coach, she was responsible for the team environment; on [redacted content] the Head Coach had a confrontation with the parents who reported the comments; on [redacted content], she had an argument with the same parents; and the conversation with parents after practice was outside the expectations set forth in the athletic handbook for staff, students, and

parents. Additionally, the letter stated that the [redacted content] Coach had not been [redacted content] as required by the District. The letter included directives about supervising and maintaining the well-being of students, having [redacted content] practices on the School campus, completing the process for [redacted content] working with students and meeting expectations regarding professionalism and communication. The letter did not mention maintaining a nondiscriminatory environment for the [redacted content] or nondiscriminatory treatment of students of different races.

The Principal also issued a letter to the JV Coach on [redacted content]. Among other things, the letter noted that the District found that inappropriate comments were made on [redacted content], in the presence of students. The letter included directives about supervising and maintaining the well-being of students, as well as meeting expectations regarding professionalism and communication.

On [redacted content], Complainant B followed up with Assistant Principal 1 via email regarding the way the team was alienating the Students. She stated that someone who is made to feel like an outsider should not be blamed for [redacted content] the Students were having to perform in a less than friendly environment, and the handling of the situation was sending the wrong message to minority children. She also said that if it was "ok" for the Head Coach to have minimal contact with the Students, it should be acceptable for the Students to do what was comfortable for them. She also felt that instead of having minimal contact with the Students, the Head Coach should make them feel wanted. The Assistant Principal responded that the Principal spoke with the Head Coach about [redacted content]

On [redacted content], Complainant B emailed an Assistant Superintendent (the Assistant Superintendent), asking for an opportunity to speak with him about the Head Coach and Student A. According to the District's summary, the District's Executive Director of Operations (Executive Director) talked with Complainant B and said that the School was following appropriate procedures in addressing the situation regarding the [redacted content] team. On [redacted content], Complainant B emailed the Assistant Superintendent, expressing dissatisfaction with the handling of the situation with Student B, stating that the District had allowed the Head Coach to mistreat and devalue the Students and characterizing the situation as a hostile environment for the Students. On [redacted content], Complainant A emailed a letter to the Superintendent requesting a meeting. According to the Meeting Notes the next day Complainant B reached out to the Chair of the District's Board of Education. According to the District's summary and the Meeting Notes, the Executive Director responded to the Complainants' contacts with the Superintendent and Board Chair; Complainant B did not raise new concerns in a discussion with him on [redacted content]; and in a discussion with him on [redacted content], Complainant A said the Head Coach continued to lash out at Student A, impacting Student A's [redacted content] and performance. The District's information shows that in discussion the Executive Director scheduled a meeting for [redacted content] to discuss the concerns further.

On [redacted content], the [redacted content] Coach contacted the parents of the School's [redacted content] team via a [redacted content]. He told the group that he was back and would be clearing his name along with the rumors. He stated that he was ready to pick up with practices again. Complainant A notified Assistant Principal 1, who assured Complainant A that the [redacted content] Coach would not be returning to the [redacted content] team. The parents' [redacted content] was closed. On [redacted content], the Head Coach resigned as the Head Coach, and a new Head Coach was assigned to the [redacted content] team.

The Meeting Notes reflect that on [redacted content], Complainant A, another parent, the School Principal, an Assistant Superintendent, and the [redacted content] met to discuss concerns regarding the School's [redacted content] program. The meeting participants decided that the parents would schedule a time for the Students to meet with the School Principal to discuss a resolution and their personal experiences with the [redacted content] program. According to the District's summary, the Complainants did not call or return calls, to set up a meeting for the Students and the School Principal.

According to the District's summary, during a basketball game in [redacted content], Student A told Assistant Principal 1 that the JV Assistant Coach was bullying her; Assistant Principal 1 asked the JV Assistant Coach about the situation; and the JV Assistant Coach said Student A had bullied her. The summary also states that the JV Assistant Coach accused Student A of yelling at other [redacted content] and disrespecting the JV Assistant Coach. Based on that summary it is not clear whether the JV Assistant Coach made that accusation before or after the Assistant Principal asked her about the situation. Complainant A emailed School and district-level administrators to express concerns about the incident at the basketball game. She contended that during the incident a [redacted content] sat next to Student A, who was sitting in the stands, and the JV Assistant Coach told Student A to move away from the [redacted content] and not talk to them. She also contended that the JV Assistant Coach had taunted, harassed, and bullied the Students throughout the season. On [redacted content], the JV Assistant Coach resigned from coaching [redacted content].

The Students remained on the [redacted content] team through, [redacted content]. [redacted content]

Analysis

OCR has a concern that while School administrators were aware of possible race-based incidents related to the [redacted content] team as early as [redacted content] and as the semester progressed, both School and district level administrators became aware of a continuing race-based hostile team environment, the District failed to take steps reasonably calculated to fully address the problems that the Students experienced and eliminate the hostile environment. School administrators responded to the [redacted content] Coach's comments by ending his contact with the [redacted content] team. Further, various administrators addressed the Head Coach's removal of Student B [redacted content] in [redacted content]; overrode the Head

Coach's [redacted content] statement that the Students were [redacted content]; and, after the follow up interviews with the coaches, arranged for more oversight over practices by moving them to campus and having an administrator attend practices. However, the District did not take additional steps to address the environment. For example, while the District issued a letter addressing the Head Coach's professionalism and communications and emphasizing her responsibility for the general well-being of the team, the evidence obtained thus far does not show any corrective action or dialogue that focused on the Head Coach providing a nondiscriminatory environment for the [redacted content] team or carrying out coaching duties in a manner that did not discriminate against students based on race. Further, the Assistant Principal may have encouraged different treatment of the Students as compared with their white teammates by leaving the Head Coach in her position but telling her to [redacted content] with the Students.

With regard to the racial divide on the team, the Assistant Principal simply told the [redacted content] to unify as a team and told the Students they needed to communicate positively with the other [redacted content]. The evidence obtained thus far does not show that the Head Coach, Assistant Principal 1, or other District staff took additional steps to counter the unwelcoming environment for the Students or affirm their entitlement to raise concerns about the [redacted content] Coach's comment or other acts they may have believed were discriminatory. Also, the evidence does not show that the District followed up on the early [redacted content] allegations that the Head Coach responded to Student A's injury by saying [redacted content] changed [redacted content] and pulled the Students [redacted content]. Moreover, while the evidence shows that the Junior Varsity Assistant Coach resigned from working with the [redacted content] team shortly after Student A and Complainant A accused her of bullying Student A, the evidence does not show that the District investigated Complainant A's report that this coach, who had previously lied to administrators, harassed Student A at the game and had harassed the Students at earlier points in the season.

Finally, OCR notes that the evidence does not show that the District took certain steps outlined in Policy GAAA. The evidence does not show for example, that the School principal prepared a written memorandum or statement regarding the complaints that were presented orally; an administrator prepared a written response to the complaints; the Superintendent or a designee prepared a written response after Complainant A emailed him requesting a meeting; or when Complainant B reached out to the Board Chair, District administrators provided her information about how she might obtain a hearing before the Board. Based on the foregoing, OCR has a concern that the District did not handle the matters raised by the Complainants and Students with the level of gravity embodied in the process set forth in Policy GAAA.

Issue 2: Retaliation

Facts

Complainants contend that the Head Coach and JV Assistant Coach were angry about the complaint regarding the [redacted content] Coach's conduct, and some of their actions on and after [redacted content] were retaliatory. The Head Coach's refusal to provide the Students [redacted content] occurred on [redacted content], which was during the first practice after Assistant Principal 1 questioned the coaches about the [redacted content] Coach's comment. According to Complainant B, after Student B came to the car and told her what happened at practice, she went inside and asked to talk privately to the Head Coach; when Complainant B asked what was going on, the Head Coach responded [redacted content] started yelling at Complainant B about past events, and said Complainant B had forced the Head Coach to put Student B [redacted content]; and, put her hands in Complainant B's face. Complainant A told OCR that after the practice the Students told her that she should not have complained because they were no longer [redacted content].

According to the District's notes regarding interviews of the coaches, during the [redacted content] interview about the [redacted content] Coach's comment, the JV Assistant Coach admitted that in a discussion with another teacher she had characterized Assistant Principal 1's first interview as having been [redacted content]." Despite the Head Coach's acknowledgement during her [redacted content] interview that she refused to provide [redacted content] for the Students, the notes of the interview and other District documentation do not reflect any direction to refrain from engaging in retaliation. Moreover, as noted above, apparently at the direction of Assistant Principal 1, the Head Coach limited her contact with the Students after the complaint about the [redacted content] practice.

OCR notes that after the administration decided to move the [redacted content] practices on campus, the Coach sent the [redacted content] parents an electronic communication about the change in practice locations. In the communication, the Head Coach stated that in order to ensure that her decisions were not questioned, and practices would run smoothly, she [redacted content].

The letter of directive issued to the Head Coach on [redacted content] did not include an instruction to refrain from, or prevent, retaliation against the Students or others who made a discrimination complaint. The letter of directive issued to the JV Coach discussed the JV Coach's having exchanged [redacted content] messages with a parent regarding the Coach's comments, and the JV Coach told OCR she was also [redacted content] at the high school due to the disruption she allegedly caused in the [redacted content] program.

With regard to the divide that occurred on the [redacted content] team beginning in early [redacted content] after[redacted content] learned about the complaints about the [redacted content] Coach, the District's information regarding Assistant Principal 1's dialogue with the Head Coach and [redacted content] do not reflect any comments by Assistant Principal 1 regarding non-retaliation or regarding the Students or Complainants having a right to raise concerns about race discrimination. Also, the District's summary of steps staff took in response to the Complainants' concerns about alienation of the Students did not reflect consideration of

whether any alleged acts constituted retaliation that the District should try to address. Finally, the District's records regarding dialogue about the basketball game incident do not reflect any discussion with the JV Assistant Coach about refraining from retaliation.

Analysis

OCR has a concern that some of the adverse acts that the Students experienced after the Complainants complained may have been retaliatory. The Head Coach's refusal to provide [redacted content] for the Students and announcement that [redacted content] occurred at the first practice after School administrators questioned the coaches about the [redacted content] Coach's comment. Also, the dynamics of the Head Coach's interactions with Complainant B immediately after that practice, and the tone of her announcement about the change in practice locations evidenced a negative reaction to the Complainants having raised concerns about the [redacted content] program. After the District made its determination regarding the [redacted content] practices, the further change in dynamics between the Head Coach and the Students -- due to her limited contact with them -- changed their access to coaching and had the potential for having a chilling effect on further reporting of concerns. In addition, in light of the District's failure to adequately address the negative peer reaction to the Students having raised concerns, there was a sufficient nexus to the District to support OCR finding that the peer reaction was an adverse action. The JV Assistant Coach's characterization of the complaints about the Head Coach as "[redacted content]" reflects a possible retaliatory motive underlying the dynamics of her interaction with Student A at the basketball game. Finally, the record is devoid of any indication that District administrators were focused on the possible retaliatory nature of any actions that the Complainants or Students raised, and District administrators did nothing to openly affirm the rights of the Students and Complainants to raise their concerns.

Prior to the conclusion of OCR's investigation, OCR determined it was appropriate to resolve the complaint with a Resolution Agreement (Agreement) pursuant to Section 302 of OCR's Case Processing Manual (CPM). On July 17, 2024, the District signed an Agreement agreeing to, among other steps: issuance of an anti-harassment statement to the public and District community regarding the District's prohibition against racial harassment, explanation of how to report of racial harassment, confirming its duty to promptly investigate and take action to end any harassment creating a racially hostile environment, and the prohibition against retaliation against individuals who report harassment or a hostile environment based on race; conduct training for all School staff, District athletics staff, staff providing [redacted content] or other extracurricular activity coaching services to School students, and District level administrators regarding Title VI and the prohibition against racial harassment and the District's duty to respond to racially hostile environment and the prohibition against retaliation; School level age-appropriate training regarding racial harassment and how to report such harassment and discrimination; and issue the Complainants a letter acknowledging their concerns with the District related to the Student's experiences in the [redacted content] program and including a copy of the District's anti-harassment statement.

The provisions of the Agreement are aligned with the complaint allegations and the information obtained during the investigation and is consistent with applicable regulations. When fully implemented, the Agreement will address all of the complaint allegations. OCR will monitor the implementation of the Agreement.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. OCR would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in Federal court whether or not OCR finds a violation.

Under the Freedom of Information Act (FOIA), it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, OCR will seek to protect, to the extent provided by law, personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released.

Please be advised that the District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

If you have any questions regarding this letter, please contact Laura Yearout at 202-987-1241 or laura.yearout@ed.gov.

Sincerely,

Michael Bennett
Compliance Team Leader

Enclosure
cc: William R. Jerles, Jr. (Counsel for District)